

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE UNION LIGHT, HEAT AND )  
POWER COMPANY TO ADJUST ELECTRIC RATES ) CASE NO. 91-370

O R D E R

On May 7, 1992, The Union Light, Heat and Power Company ("ULH&P") filed an application requesting rehearing of the Commission's April 17, 1992 Order denying ULH&P's request for interim rate relief or, in the alternative, authority to record as a deferred debit the increase in purchased power expense that became effective on February 13, 1992. The increased power expense is a result of a decision by the Federal Energy Regulatory Commission ("FERC") to allow increased power rates to become effective subject to refund on February 13, 1992. The increased rates for purchased power were requested by the Cincinnati Gas and Electric Company ("CG&E"), the parent and wholesale power supplier of ULH&P. ULH&P requested that the increase in purchased power expense so deferred, along with a carrying charge, be included as a rate-making expense and recovered in this case.

In support of its request for rehearing, ULH&P argues that a denial of the accounting deferral will result in a material impairment of its credit and would not, as found by the Commission, constitute retroactive rate-making. ULH&P also claims that since its application was filed with a request that the

proposed rates not be suspended, the Commission's decision to suspend could properly be modified by allowing the requested accounting deferral without resulting in ULH&P ultimately receiving more revenue than it originally requested. Finally, ULH&P argues that the Commission was legally obligated to allow recovery of the FERC-filed rate as of February 13, 1992, the date the rate became effective. On May 15, 1992, the Attorney General's office, Utility and Rate Intervention Division ("AG") filed a response in opposition to ULH&P's petition.

The Commission has carefully reviewed the petition and response in light of both our April 17, 1992 Order and the evidence of record. Based on that extensive review, we find no reason to grant rehearing. While ULH&P's petition claims that the Commission has erroneously found an absence of financial impairment, ULH&P has failed to either specify any specific errors in our prior findings or quantify the impact of the alleged errors.

ULH&P correctly stated the Commission's authority to prescribe regulatory accounting treatment for the increased purchased power expense, including the establishment of a deferred debit. However, ULH&P has made it clear in previous requests as well as the pending petition for rehearing that it seeks an accounting deferral for the sole purpose of recovering the deferred expense plus a carrying charge through future rates. Irrespective of the actual amount of rate increase granted ULH&P in our May 5, 1992 Order, the request to recover this deferral of \$5.2 million was not included in the notice given by ULH&P to the

Commission and the public pursuant to KRS 278.180(1). ULH&P is bound by this notice and can request no rates in excess of the amounts so noticed.

The Commission's April 17, 1992 Order discussed numerous areas where ULH&P had failed to carry its burden of proof to justify its request for either an accounting deferral or interim rates. As stated in that Order, ULH&P failed to demonstrate that its credit or operations will be materially impaired or damaged absent the interim relief requested. Nowhere in ULH&P's petition for rehearing does it specify where and in what respect this burden was satisfied. Rather, ULH&P merely notes that there are thousands of pages of evidence in the record of this case.

All the financial information presented to support the merits of this rate case covers the 12 month test year ending July 31, 1991, whereas the financial ratios presented to justify the interim relief are for calendar years 1990 and 1991. All the test year information shows the impact of an annual increase in purchased power expense of approximately \$25 million, but nothing addresses ULH&P's earnings and financial condition during the interim period from February 13, 1992 through May 3, 1992. In addition, our April 17, 1992 Order noted the absence of workpapers, lack of quantification of increasing financing costs, absence of financial information for the interim period, failure to provide analysis of the impact on cash flow and no evidence of cost saving measures undertaken to minimize degradation of its financial condition. ULH&P did not proffer this missing information in seeking rehearing nor does it attempt to refute the

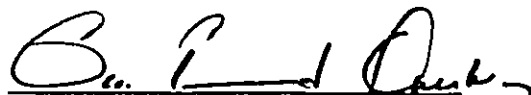
Commission's finding of ULH&P's failure to meet its statutory burden.

Despite our inability to investigate the reasonableness of CG&E's FERC-filed rate, we can exercise our discretion under KRS 278.190(2) to suspend ULH&P's proposed rates and conduct an investigation of ULH&P's overall financial condition to determine if other expenses have decreased or economies have been achieved. See Narragansett Electric Co. v. Burke, 119 R.I. 559, 381 A.2d 1358 (1977) cert denied, 435 U.S. 972 (1978). In such a situation, the increased FERC-filed rate may properly be off-set with other changes in revenues or expenses, potentially resulting in no increase to retail customers. It must also be emphasized in this case that at the time the Commission suspended ULH&P's proposed rates, the FERC had rejected CG&E's request to increase its purchased power rate. The Commission thus properly suspended ULH&P's proposed new rates and interim relief can then only be granted, as provided for in KRS 278.190(2), upon a finding that ULH&P's credit or operations will be materially impaired or damaged absent such relief. ULH&P failed to present sufficient evidence to persuade us that such an impairment or damage would occur, and there is nothing in the petition for rehearing to persuade us to rehear that decision.


IT IS THEREFORE ORDERED that ULH&P's petition for rehearing of the Commission's April 17, 1992 Order be and it hereby is denied.

Done at Frankfort, Kentucky, this 26th day of May, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director , Acting